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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,578	01/23/2006	Alain Pouchelon	PLAS-029	9250

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JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA, VA 22314

EXAMINER	
LOEWE, ROBERT S	

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
05/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/522,578	POUCHELON ET AL.	
	Examiner	Art Unit	
	ROBERT LOEWE	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-29 and 31-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-29 and 31-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 October 2008* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/14/09 has been entered.

Response to Arguments

The 112, second paragraph rejection made in the previous Office action has been withdrawn.

Applicant's amendments have removed the 102(b) rejection to Fujiki et al. (US Pat. 6,387,520). However, Fujiki et al. is still relied upon as an obviousness type reference.

Applicants have amended independent claims 25 and 32 such that the silicone compositions 'consist essentially of' ingredients (a)-(d), (f), (g) and optionally (h). Applicants argue that the relied upon prior art of Fujiki et al. (US Pat. 6,387,520) and Lorenzetti et al. (US Pat. 5,658,674) both require the presence of a silica filler; such filler being excluded from the 'consisting essentially of' claim language of the amended claims. The Examiner is not persuaded by these arguments for several reasons. First, Lorenzetti et al. explicitly teaches that mineral fillers/silica fillers are not required. While Lorenzetti et al. employs a silica filler in the examples, a prior art reference may be relied upon for all that it teaches, including non-preferred embodiments. Second, while Fujiki et al. teaches that wet silica is added to the compositions

taught therein, such ingredient would satisfy the limitations for component (h) of the instant claims. Component (h) does not appear to further limit the claimed composition in any way. Silica certainly qualifies as a functional additive which imparts specific properties. Third, Applicants pre-amended claims allowed for the presence of mineral fillers, such as silica, suggesting that the presence of mineral fillers do not materially affect the properties of the composition. Finally, the courts have stated that for the purposes of searching for and applying prior art under 35 U.S.C. 102 and 103, absent a clear indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising." See, e.g., PPG, 156 F.3d at 1355, 48 USPQ2d at 1355.

The Experiments performed by Applicants in Applicants response is noted. However, while the experiments are believed to overcome the prior art rejection of Fujiki et al. in view of Lorenzetti et al., the experiments do not overcome the prior art rejection of Lorenzetti et al. in view of Fujiki et al. The Experiments performed by Applicants show that the composites prepared according to the instant invention have capillary rise times of less than 10 mm, while the compositions taught by Fujiki et al. and Lorenzetti et al. each individually have capillary rise times of greater than 10 mm. However, it is the position of the Examiner that the capillary rise times are governed by the degree of penetration and infiltration of the silicone coating with respect to the air bag fabrics. A poorly coated air bag fabric, when subjected to the T test as described in Applicants specification would be expected to have a high capillary rise time since the ink would be able to rise up from the base of the composite and migrate upwards due to the capillary action of the ink with the untreated/poorly treated airbag fabric. Conversely, an air bag which is well impregnated/fully coated with the silicone composition would be expected to have

little or no capillary rise time owing to the fact that the air bag fabric is fully penetrated and coated with the silicone composition (i.e., no capillary action). Further, it is the position of the Examiner that the degree of penetration and infiltration is related to the viscosity of the coating composition. Low viscosity coating solutions would be expected to have better infiltration and improved coating ability when compared to high viscosity coating solutions. Fujiki et al. provided motivation to a person having ordinary skill in the art to lower the exemplified viscosities as taught by Lorenzetti et al., the motivation being that lower viscosity solutions allow for solvent free coating compositions which provide infiltration to the airbag fabric (8:11-16 of Fujiki et al.).

In response to applicant's argument that neither of the prior art references satisfy the claimed capillary rise, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Claim Rejections - 35 USC § 103

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 25-29 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lorenzetti et al. (US Pat. 5,658,674) in view of Fujiki et al. (US Pat. 6,387,520; equivalent to EP-1078823 which is cited on the international search report as an "X" reference).

Claims 25-29, 31 and 32: Lorenzetti et al. teaches a low-temperature curable polysiloxane composition consisting essentially of components (a), (b), (c), (d), (f) and (g) of instant claims 25 and 32 (1:66-2:11; 2:40-62 and claims 1). The silica filler as exemplified by Lorenzetti et al. is taught to be an optional ingredient (2:50). Lorenzetti et al. also teaches a process for coating an airbag which satisfies instant claim 32 (see examples). Lorenzetti et al. further teaches that components (a) and (b) of instant claim 25 further satisfy the limitations of instant claims 27-29 (claims 10-12 of Lorenzetti et al.). Lorenzetti et al. further teaches all of the claimed limitations of the adhesion promoter (claims 25 and 31 of Lorenzetti et al.). In summary, Lorenzetti et al. substantially teaches all of the claimed ingredients and amounts of the instant claims. Lorenzetti et al. further teaches coating the substrates using doctor blades or rolls (i.e., roll coating) (10:11-15). Such coating techniques inherently apply pressure to the substrate as required by instant claim 32.

The only differences between the instant application as claimed and Lorenzetti et al. is the viscosity range of instant claims 25 and 32 and the silence of a coating pressure of Lorenzetti et al. Lorenzetti et al. does not teach that the viscosity fall into the range of instant claims 25 and 32; rather Lorenzetti et al. teaches that the viscosity of the precured compositions be at least 10,000 mPa·s (8:13-15). However, Fujiki et al. teaches a curable organopolysiloxane

composition having a pre-cured viscosity of preferably 1,000 to 10,000 mPa·s, with an explicit teaching of a curable composition having a viscosity of 4,500 mPa·s (8:47-48). Lorenzetti et al. and Fujiki et al. are combinable because they are from the same field of endeavor, namely, curable silicone compositions which are used to coat airbags. At the time of the invention, it would have been obvious to a person having ordinary skill in the art to lower the pre-cured viscosity to within the range as taught by Fujiki et al. and use such viscosities in the compositions taught by Lorenzetti et al. and would have been motivated to do so because Fujiki et al. teaches that the curable composition does not require solvent and provides improved infiltration, adhesion and coating ability on a fabric such as an air bag fabric (8:11-16). Further, Fujiki et al. teaches that the pre-cured polysiloxane compositions most preferably have a viscosity which satisfies the limitation of instant claims 25 and 32 so as to improve blending and film-strength (3:16-22). Improved penetration of the pre-cured compositions of Lorenzetti et al. would be a desirable property given the teachings of Fujiki et al.

Because Lorenzetti et al., in view of Fujiki et al., teach all of the claimed ingredients, it inherently follows that the compositions taught by Lorenzetti et al. would be capable of impregnating a fibrous material right to the core followed by crosslinking to form a composite having a capillary rise time of less than 10 nm, as required by instant claims 25 and 32.

Claim 33: Lorenzetti et al. teaches that the air bags preferably comprise a fabric support, such as nylon (8:66-9:3), which satisfies instant claim 33.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT LOEWE whose telephone number is (571)270-3298. The examiner can normally be reached on Monday through Friday from 5:30 AM to 3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-13021302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. L./
Examiner, Art Unit 1796
28-May-09

/Randy Gulakowski/

Supervisory Patent Examiner, Art Unit 1796